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C O N F I D E N T I A L SECTION 01 OF 03 ABUJA 003304

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STATE FOR EB/TPP AND AF/W
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TAGS: [ETRD](#) [BEXP](#) [KTEX](#) [ECON](#) [NI](#)
SUBJECT: NIGERIAN TEXTILE BAN: "WE'RE DOING THIS FOR AGOA"

REF: A. USDOC 6040
[B](#). LAGOS 2034
[C](#). ABUJA 1810

Classified by Ambassador Howard F. Jeter; Reasons 1.5 (b) and (d).

Summary

[1](#)1. (U) Standing the spirit of free trade on its head, a senior Nigerian Commerce Ministry official says the GON temporarily banned imports of certain printed fabrics and now imposes import restrictions on these items as part of the country's efforts to qualify for AGOA trade benefits. The Standards Organization of Nigeria will implement these new regulations, which include testing for dangerous chemicals, labeling, and enforcement of intellectual property rights. In addition, the Nigeria Customs Administration will enforce minimum values and shipping restrictions announced August 2002 (Ref. B). The Commerce official also claims the new regulations are WTO consistent and that HS code 5210.600 exists at the international level.

[1](#)2. (C) There is a much simpler, more plausible explanation for the new trade regime in textiles: the protection of a troubled domestic industry. Additionally, a poor understanding of the international trading system among GON trade policy experts and systemic corruption in the Customs Service that makes tariff collection difficult explains why protection for these textile manufacturers was granted in this WTO-inconsistent fashion. End Summary.

[1](#)3. (U) Ministry of Commerce Director for External Trade Y.F. Agah met November 29 with Econoff to discuss the GON's import ban and new registration system for textiles known as "African prints." These textiles, usually brightly colored and printed on both sides, are primarily used to make traditional attire for both men and women. Agah--three months ago promoted from Deputy Director for Multilateral Trade to Director for External Trade--has been working on this issue for the GON at the interagency level since 2000.

A New Import Licensing Regime

[1](#)4. (U) Agah maintained that the ban on imports of African prints was intended to regulate the textile trade by eliminating illegal trans-shipments so that Nigeria could qualify for AGOA textile benefits. He said the GON recognized that Nigerian manufacturers could become competitive exporters of African prints to the United States if AGOA benefits were accorded. The first step was to gain recognition of Nigerian African prints as folkloric articles, something he claims AUSTR Rosa Whitaker agreed to at the April 2002 TIFA held in Washington.

[1](#)5. (U) The second step was to regulate imports of Asian-made African prints into Nigeria, much of which had illegally passed through Atlantic ports or across the Benin border. He said that before the GON could establish a workable visa system to prevent trans-shipment, it was necessary to first establish an orderly, legal trading regime. Agah separately mentioned legislation now pending in the National Assembly for an AGOA-consistent textile visa system that would be the next step in efforts to prevent trans-shipment.

[1](#)6. (U) On August 27, the Ministry of Finance announced a ban on imports of African prints effective on August 31. The ban was intended to be temporary, pending establishment of new import regulations for those textiles (Ref. B). Agah claimed the system was now in place and the temporary ban was lifted in October. Agah mentioned that in addition to the import

requirements in the August 27 notice--such as a minimum import price, restriction of imports to Apapa and Tin Can ports only, and incentive pay for customs agents--the GON had established other import rules that would be implemented by the Standards Organization of Nigeria (SON).

17. (U) First, the SON would certify harmful chemicals were not used in manufacturing the fabric. Agah claimed many foreign manufacturers used dangerous chemicals--chlorides and sulfates--in printing the fabrics. According to Agah, these chemicals often precipitate severe allergic skin reactions. Second, the SON would verify that each bolt of fabric or finished garment is accurately stamped to indicate the country of origin and manufacturer. He asserted that many imported fabrics were fraudulently stamped "Made in Nigeria," when in fact they were not. Frequently, the fabric would not include any information at all on its origin. Third, the SON would certify that the designs used in the African print were original and not copied from other manufacturers.

18. (U) Agah could not provide additional information on the process an importer would go through to get SON certifications. Nor could he say whether any importers had applied for SON certification or whether any African prints had actually been imported under the new system. He said the regime had only been in place for two months, and the SON had probably not clearly defined these import procedures. He suggested Econoff contact the SON, based in Lagos. (Note: Lagos Econoff has been unable to contact a SON official who is aware of these new certification requirements for imported African prints. End Note.)

WTO Concerns

19. (U) Agah told Econoff that Article XVIII of the GATT Agreement permits restrictions on imports of printed fabrics as a safeguard measure to protect local industry from an import surge. When asked how the GON determined there was a damaging import surge, he answered that the markets were being flooded with cheap printed fabrics from India and China. At least four Indian companies were mass-producing for the Nigerian market, Agah maintained. He said that the market price for imported fabrics was 250 Naira (about \$2), while similar Nigerian fabrics sold for 850 to 1,000 Naira (\$6.50 to \$7.75). Agah acknowledged that no notification had been made yet to the WTO on this justification for the new import regime.

110. (U) Agah argued that Article XX also allowed for the import restrictions based on public health concerns. As mentioned above, Agah claimed that many imported African prints are made using harmful chemicals. He said that it was consistent with the WTO framework that the GON be allowed to regulate this trade.

111. (U) On the issue of national treatment, Agah stated that domestic manufacturers of African prints already "scrupulously" followed the regulations the SON would now enforce for imported fabrics. He indicated that the SON regularly visited textile manufacturers to ensure compliance. Therefore, there was no reason to also restrict the sale of local textiles.

Customs Implementation

112. (U) Agah explained that the Bureau of Customs would not only enforce a minimum import price but also a minimum volume per 20-foot container. The Ministry of Finance had not yet determined the import price to be applied, he said. The minimum quantity, however, would be 6,000 meters of fabric per container. Such a minimum was necessary because, according to Agah, all too often importers had claimed to bring in half-full containers when in fact the container was full to the brim. He indicated that physical inspection of each and every container was not practical, and therefore a minimum volume and price is necessary to prevent under-invoicing.

113. (U) Agah said that the import regime would be applied only for goods declared under the Harmonized System heading of 5210.6000, which he claims exists at the international level. He indicated the heading was established to ensure that only African fabrics, and not other printed or dyed fabrics, would be affected by the new import regime.

114. (U) Agah claims that the WTO Agreement on Customs Valuation has not yet been implemented in Nigeria, and therefore establishing a minimum import price was not

contrary to WTO rules. He believes that in the wake of the lack of progress at the 2000 WTO Ministerial in Seattle, many developing countries, including Nigeria, were granted a de facto temporary exemption from implementing a customs valuation system based on transaction values. In the long run, he said the GON is planning to implement transaction value and move away from its current pre-shipment inspection regime that is based on reference values, but he was unable to provide a timeline for this changeover. (Note: The Comptroller of Customs for the Lagos Zone told Econoff in Lagos that he has no knowledge of the lifting of the ban or any standards to be implemented by the Customs Service.)

Comment

¶15. (C) Contrary to Agah's claim, Nigeria's efforts to become a textile exporter under AGOA was not the sole reason for the ban on African prints and the new import regime. It likely was not even the primary reason. A more significant factor was the GON attempt to protect the domestic market for domestic textile manufacturers, who include wealthy, politically connected businessman such as Aliko Dangote. For quite some time, local manufacturers have been vociferously complaining about being unfairly squeezed by Indian competitors. We have seen similar trade measures imposed on goods such as used automobiles and frozen chickens. In those cases, the GON similarly claimed it wanted to stop smuggling or protect consumer health.

¶16. (C) Embassy and Washington-based officials have previously briefed Agah on the requirements of an AGOA-consistent textile visa system. The GON should be aware that such a system is based on record-keeping by producers to prevent trans-shipments, not on import restrictions. Agah seemed genuinely surprised that we would find GON textile trade restrictions, ostensibly implemented for the sake of AGOA, an unwelcome development. This episode shows that GON officials have a relatively shallow understanding of international trading rules. (Agah, although wrong on many points, is truly one of the GON's most senior trade experts.)

¶17. (C) Another reason the GON is employing WTO-inconsistent non-tariff barriers to protect domestic industry is that tariffs are extremely difficult to administer in Nigeria. Smuggling--facilitated by corrupt customs officials--is rampant, and any tariff enacted to protect domestic industry is easily circumvented and therefore does not satisfy local manufacturers. GON officials apparently believe they can better control trade through non-tariff barriers. End Comment.
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